S. HRG. 98-810

REINSTATEMENT AND VALIDATION OF UNITED STATES OIL AND GAS LEASE

HEARING

BEFORE THE

SUBCOMMITTEE ON
ENERGY AND MINERAL RESOURCES

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

S. 1770

A BILL TO EXTEND THE LEASE TERMS OF FEDERAL OIL AND GAS LEASE NUMBERED U-39711

MARCH 14, 1984

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Committee on Energy and Natural Resources

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REINSTATEMENT AND VALIDATION OF U.S. OIL AND GAS LEASES

WEDNESDAY, MARCH 14, 1984

U.S. SENATE,
SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:35 a.m., in room SD-366, Dirksen Office Building, Hon. John W. Warner presiding.

Present: Senator Warner.

Also present: Roger Sindelar, counsel, and Linda Mason, professional staff member for the minority.

OPENING STATEMENT OF HON. JOHN W. WARNER, A U.S. SENATOR FROM THE STATE OF VIRGINIA

Senator WARNER. Today the Subcommittee on Energy and Mineral Resources is holding a hearing on S. 1770, a private bill to extend the lease terms of Federal oil and gas lease No. U-39711 in Utah.

It is my understanding from counsel this legislation has passed the House of Representatives. Is that right?

COUNSEL. That is right.

Senator WARNER. It is now pending before the Senate. We have here this morning Mr. George Brown, Assistant Director for Fluid Leasable Minerals, Bureau of Land Management, Department of the Interior, our leadoff witness, to be followed by Mr. Dennis Ickes, a former Presidential appointee of the Department of the Interior.

We welcome you, Mr. Brown.

[The text of S. 1770 follows:]

II

98TH CONGRESS
1ST SESSION

S. 1770

To extend the lease terms of Federal oil and gas lease numbered U-39711.

IN THE SENATE OF THE UNITED STATES

AUGUST 4 (legislative day, AUGUST 1), 1983

Mr. GARN (for himself and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To extend the lease terms of Federal oil and gas lease numbered U-39711.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any decision to the contrary heretofore made by the Secretary of the Interior of the United States or his authorized agents or representatives, United States oil and gas lease numbered U-39711 shall be held not to have terminated by operation of law or otherwise on January 30, 1980, but shall be deemed to be in full force and effect as having been capable of producing oil and gas prior to the expiration date of the lease and the term of said lease shall be extended from that date forward for so long after the date of

enactment of this Act as oil and gas is produced in paying quantities. The lessor shall be granted a reasonable time to install production equipment and facilities on said lease: *Provided,* That within thirty days after the receipt of written notice from the Secretary of the Interior the lessee shall tender payment of back rentals at the rate of not less than $5 per acre per year. Notice shall be given by the Secretary within thirty days after the effective date of this Act. The Secretary shall include in the reinstated lease a future rental requirement of not less than $5 per acre per year and a future royalty rate requirement of not less than 16⅔ per centum: *Provided, however,* That except as specifically modified herein as to such lease, all other provisions of the Mineral Lands Leasing Act of 1920, as amended, shall be applicable as to such lease.

○

STATEMENT OF GEORGE BROWN, ASSISTANT DIRECTOR, FLUID LEASABLE MINERALS, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Mr. BROWN. Thank you, Mr. Chairman. Mr. Chairman, I would like to submit the prepared statement for the record and just summarize with a few comments, if I may.

I appreciate the opportunity to appear to discuss Interior's views on S. 1770. Under this bill oil and gas lease Utah 39711 would be held not to have terminated by operation of law and would be deemed to be in full force and effect as having been capable of producing oil and gas prior to the expiration date of the lease.

The term of the lease would be extended forward from the expiration date for so long after the date of enactment of the act as oil and gas is produced in paying quantities. The lessee would be given a reasonable time to install production equipment and facilities on the lease.

Within 30 days after receipt of written notice from the Secretary, the lessee would be required to tender payment of back rental at the rate of not less than $5 per acre. The Secretary would be required to include in the reinstated lease a future rental requirement of not less than $5 per acre per year and a future royalty rate of not less than 16⅔ percent. Except as specifically modified by S. 1770 as to lease 39711, all other provisions of the Minerals Leasing Act of 1920 would apply to the lease.

We have no objection to the enactment of the bill if the Congress finds that the lessee warrants special relief.

The prepared statement includes the detailed history of the lease in question, beginning with its birth on March 1, 1969, and I will not go through those details. I would like, however, to highlight a couple of points and make two or three suggested amendments.

Senator WARNER. Three suggested amendments to the bill?

Mr. BROWN. Yes.

Senator WARNER. Three technical amendments to the bill?

Mr. BROWN. Yes, three technical amendments. A couple of points to be highlighted first. Under the Mineral Leasing Act, the Secretary does not have the authority to reinstate leases that expire because of a failure to establish production prior to the end of the lease term. Thus, reinstatement is dependent upon action by the Congress.

The second point to highlight: The proposed bill would impose on the company the same conditions that would apply if the lease could have been reinstated under the terms of section 401 of the Federal Oil and Gas Royalty Management Act of 1982.

With those two points, and finally then, the three amendments that are suggested, the phrase "oil and gas" should be replaced with the phrase "oil or gas" in both places that it appears.

We would recommend the bill provide that the lessee rather than the lessor be required to install production equipment and facilities on the lease.

Third, the requirement to install production equipment be met within 6 months rather than the reasonable time granted by the bill.

That concludes my comments, Mr. Chairman.

[The prepared statement of Mr. Brown follows:]

MAR 1 4 1984

STATEMENT OF GEORGE BROWN, ASSISTANT DIRECTOR, FLUID LEASABLE MINERALS, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES, COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, ON S. 1770, A BILL "TO EXTEND THE LEASE TERMS OF FEDERAL OIL AND GAS LEASE NUMBERED U-39711."

I appreciate the opportunity to appear before the subcommittee this morning to discuss the Department of the Interior's views on S. 1770.

Under S. 1770, oil and gas lease U-39711 would be held not to have terminated by operation of law and would be deemed to be in full force and effect as having been capable of producing oil and gas prior to the expiration date of the lease. The term of the lease would be extended forward from the expiration date for so long after the date of enactment of the Act as oil and gas is produced in paying quantities. The lessee would be given a reasonable time to install production equipment and facilities on the lease.

Within 30 days after receipt of written notice from the Secretary, the lessee would be required to tender payment of back rental at the rate of not less than $5 per acre per year. The Secretary would be required to include in the reinstated lease a future rental requirement of not less than $5 per acre per year and a future royalty rate of not less than 16 2/3 percent. Except as specifically modified by S. 1770 as to lease U-39711, all other provisions of the Mineral Leasing Act of 1920 would apply to the lease.

We would have no objection to enactment of the bill if the Congress finds that the lessee warrants special relief.

Lease U-7755, comprising approximately 1,119 acres in Uintah County, Utah, was issued on March 1, 1969, for a term of 10 years. On January 30, 1978, the United States Geological Survey approved a lease unit, the Castle Unit, which included 479 acres of lease U-7755.

The 640-acre portion of lease U-7755 not committed to the Castle unit, that is, the non-unitized portion, was segregated out and designated lease U-39711. The primary lease term of lease U-39711 ended on February 28, 1979, because the lease terms of U-7755 also applied to U-39711. Under the law, the non-unitized portion of a lease that has been committed to a unit continues in full force and effect for the original primary lease term or for two years from its segregation from the unit plan, whichever is longer, and so long thereafter as oil or gas is produced in paying quantities. Thus, lease U-39711 would have expired on January 30, 1980, unless production of oil or gas in paying quantities was established by that date.

The Pacific Transmission Supply Company (Pacific) and the Chorney Oil Company (Chorney) are the record title holders of lease U-39711. In late 1979, Pacific and Chorney entered into an agreement with Paiute Oil and Mining Corporation (POMCO), which designated POMCO as the lease operator. Notices to that effect were sent to the Government by Chorney on December 17, 1979, and by Pacific on January 22, 1980.

On January 3, 1980, POMCO submitted an application to drill well No. 24-15, and preliminary staking of the well was authorized on January 4, 1980. The authorization noted that the start of actual work was dependent on the completion of a survey for cultural resources and threatened and endangered flora and fauna. The application to drill was approved on January 25, 1980.

The operator has reported that it was drilling by January 29, 1980, with a small drill rig because a larger rig capable of drilling to the desired depth was not available at that time, and that following the start of drilling further drilling was delayed until February 13, 1980, the earliest time that the larger rig could be moved to the drill site. A February 12, 1980, Geological Survey report of a field inspection of well No. 24-15 and other wells indicates that drilling on well No. 24-15 was expected to begin in about two days. In any case, production in paying quantities was not established for well No. 24-15 on or before January 30, 1980.

The operators of the wells covered by the February 12, 1980, report were ordered to cease operations on all the wells covered by the report until certain ponds were fenced. On February 20, 1980, Geological Survey reinspected the sites and authorized resumption of operations.

On June 9, 1980, the Geological Survey notified POMCO that lease U-39711 had expired on its own terms on January 30, 1978, and advised that plans should be made to plug and abandon the well, and rehabilitate the site.

In a July 7, 1980, letter to Geological Survey, POMCO acknowledged that it never saw the actual lease until after the well was drilled, that it had relied on the oral statement of a Government employee that mere drilling on the expiration date would qualify the lease for extension, that it believed that it was drilling under the provisions applicable to the primary term of an oil and gas lease, that it had spent $340,000 in developing the lease, and that representatives of Geological Survey were present at the drill site on January 30, 1980, to verify that the well was started. We note, however, that the responsible Geological Survey office has no record of any of its personnel being present at the drill site on January 30, 1980.

In the July 7 letter, POMCO officials also indicated that because of delays in the delivery of heavy duty drilling equipment, production never began on the leasehold, but that field testing completed on February 24, 1980, proved that the well was capable of production, and that this conclusion was verified by an independent evaluation dated April 5, 1980. In an August 13, 1980, letter to the Geological Survey, POMCO advised that it was new to the business of drilling oil wells.

The designation of an operator does not relieve the lessee of responsibility for compliance with the terms of the lease and the applicable regulations, and it is assumed that a lessee and/or his operator is thoroughly knowledgable about the terms of the lease. Even though POMCO may have relied on the oral statement of a Government employee in assuming that drilling over the expiration date would qualify the lease for a 2-year extension, erroneous oral statements by Government employees cannot relieve an operator from compliance with either the law or the terms of a lease.

Under the Mineral Leasing Act of 1920, the Secretary does not have the authority to reinstate leases that expire because of a failure to establish production prior to the end of the lease term. Thus, reinstatement of the lease is dependent on action by the Congress.

We offer the following information which may be helpful as the Congress considers the reinstatement issue --

- POMCO, as operator of the lease, will lose the $340,000 it has invested in the lease even though it was diligent in pursuing development of the lease shortly after it was designated as operator.

- An inexperienced operator that has been led to believe by the owner of record that a lease is in its primary term could be confused as to what actions will qualify the lease for an extension, since leases in their primary terms can be extended for 2 years by mere drilling over the expiration date of the lease, and especially if a statement to that effect, in regard to the lease in question, has been made by a Government employee.

- Even though the Geological Survey should have known on January 30, 1980, that the lease had expired, a representative of the agency made inspections of the operation on February 12 and 20, 1980. This could have led the operator to believe that the lease had been extended, and could have induced the operator to spend more money in developing the lease after its January 30, 1980, expiration date.

- POMCO has alleged that it could not locate the lease file in the Bureau of Land Management's office in Utah. If that is true, it may have been one of the reasons that the company was not knowledgeable about the terms of the lease.

- POMCO would be able to begin production of the lease long before any new lessee could.

Finally, we note that the bill would impose on the company the same penalties that would apply if the lease could be reinstated under the terms of section 401 of the Federal Oil and Gas Royalty Management Act of 1982. The increased royalty would probably equal any bonus that would be received by the Government if the lease were to be offered competitively. This is especially true since only 320 acres of the 640-acre leasehold have been determined to be in a known geologic structure (KGS), and only that portion of the leasehold that is in a KGS would be leased competitively.

We suggest three amendments to the bill. The phrase "oil and gas" should be replaced with the phrase "oil or gas" in both places that it appears, and the word "lessor" in line 2, page 2, should be "lessee". In addition, we recommend that the lessee be required to install production equipment and facilities on the lease within 6 months, rather than the "reasonable time" granted by the bill.

This concludes my statement. I would be pleased to respond to any questions on this bill.

Senator WARNER. And from my understanding from counsel, the House has agreed to those amendments?

Mr. BROWN. Yes.

Senator WARNER. Now, Mr. Brown, while you and I do not know each other, you are a person who has served, I think, long and with distinction in the Department. Is that correct?

Mr. BROWN. I have served for some 20 years; yes, sir.

Senator WARNER. I would classify you as one of those loyal, sound Federal employees who protects the interest of the public, and that indeed is a function of the Department as a trustee of our Nation's resources. Are you satisfied that the public interest in this matter will be adequately protected?

Mr. BROWN. Yes, sir. I think that the recommendations here would satisfy the interests of the Government and the public.

Senator WARNER. The lease was terminated by operation of law. It is my understanding from counsel that the termination was brought about by a mistake and partly that mistake is to be borne by the Department. Is that correct?

Mr. BROWN. On my review of the file, Mr. Chairman, there apparently were some misunderstandings and mistakes and other concerns that probably can best be addressed in the way that is proposed here for this particular leasing situation.

Senator WARNER. This type of legislation is always highly suspect to the Congress. We are making an exception for these petitions and I have an obligation, again, on behalf of the public to make certain that the Government, the U.S. Government that is, gets full value for the lease under this proposed procedure. Do you certify to that?

Mr. BROWN. I think, sir, that the fact that the new terms and conditions, both rental and royalty rates, that will be provided for under this proposed bill will be the same conditions as those that are now permitted under the Federal Oil and Gas Royalty Management Act of 1982, and would provide the necessary protection for the Government. They will provide for an increased rental rate, back rental rates at an increased rate and for an increased royalty rate.

Senator WARNER. So it is your judgment that the terms of the lease reinstatement will protect the public's interests. There is no evidence of any political favoritism. It is a straightforward, objective readjustment of the situation in fairness to all parties involved?

Mr. BROWN. Yes, sir. We feel satisfied with the bill.

Senator WARNER. Then it is satisfactory for the interests of this subcommittee. Mr. Brown, I thank you for taking your time to be here this morning.

We will now hear from Mr. Ickes.

STATEMENT OF R. DENNIS ICKES, ATTORNEY FOR PAIUTE OIL & MINING CO.

Mr. ICKES. Mr. Chairman, good morning.

Senator WARNER. Mr. Ickes, we will enter your complete statement in the record. I have addressed the principal concerns of the

subcommittee and you may proceed to address this issue as you wish.

First, am I correct, you were a member of the administration? Is that right?

Mr. ICKES. Yes, Mr. Chairman; I was, some years back. Now I am in private practice in Salt Lake City. Forgive my voice this morning; in the arid State of Utah coming to the humid climate of Washington, I have picked up a bit of a hoarse voice.

Senator WARNER. Let us hope that is all you pick up here.

Mr. ICKES. I have submitted for the record this morning, Mr. Chairman, a statement pertaining to this bill, and if it may please the Chairman, I will summarize some of the highlights of it to save your time, or if you like, I will read the statement in the record, whichever you would like me to do.

Senator WARNER. Fine, you do that.

Mr. ICKES. Summarize?

Senator WARNER. Yes.

Mr. ICKES. The principal thing we would like to point out is that the bill is basically doing that which the Congress suggested in the Federal Oil and Gas Royalty Management Act of 1982. In that act, in its consideration the Congress determined then that a lease which had not been paid at the proper time could be extended under certain conditions.

Those conditions were, first, whether the circumstances that led to the lease termination justified the lease's reinstatement and then, second, if the reinstatement was appropriate, what terms should be applied to that lease. The circumstances surrounding this particular lease and its termination were such that there were inadvertent mistakes both by the lessee and by Government employees.

This occurred during a time when the energy crisis had hit the United States and there was a great flurry of activity by oil companies trying to get those leases into production, and at that time there was a shortage of drill rigs and even though a lessee who wants to commence drillings can always find the right size drill rig to bring onto a site and commence the drilling process, this was one of those, and the Government at that time was anxious to promote drilling activity to provide oil products to the country.

In that mutual desire to provide energy, both the Government and the lessee made some of those mistakes, all of them inadvertent.

So we would suggest that the lease termination and its reinstatement of the lease are justified and then, secondly, if that is justified then what terms should be applied? And we look to the Federal Oil and Gas Royalty Management Act of 1982 as the guide, wherein it did suggest an increase and a penalty of $5 back rental and an increased royalty from 12.5 percent to no less than 16⅔ percent. This is what this bill contains.

So in effect it conforms with the Royalty Management Act in a situation that the Royalty Management Act does not cover. For that reason, we believe it is a fair bill and it is one which will ultimately serve the public interest, because at this point in time this company has drilled that well and it has proved commercial production. Within the 6 months allowed by the bill, the company will

bring it into production and produce income to the United States through the royalty payments as well as the payment of $5, if it were to go to competitive lease as provided by the regulations. Otherwise it would take a great deal of time and lost production, and it would not increase the revenues to the United States, in our opinion.

For that reason, we would urge the passage of Senate bill 1770. That would complete my summary of our statement and I would be happy to answer any questions the Senator may have.

[The prepared statement of Mr. Ickes follows:]

STATEMENT OF R. DENNIS ICKES
ATTORNEY FOR PAIUTE OIL AND MINING COMPANY
BEFORE THE SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES,
COMMITTEE ON ENERGY AND NATURAL RESOURCES, U.S. SENATE
CONCERNING S.1770, A BILL "TO EXTEND THE LEASE TERMS
OF FEDERAL OIL AND GAS LEASE NUMEER U-39711"

March 14, 1984

On behalf of Paiute Oil and Mining Co. I appreciate the opportunity to appear before this subcommittee this morning to discuss with you S.1770.

The purpose of S.1770 is to deem that federal oil or gas lease U-39711 did not terminate by operation of law or otherwise on January 30, 1980, but instead continued in full force and effect as one capable of producing oil or gas prior to the expiration date. The Act extends the term of the lease forward from the date of enactment so long as oil or gas is produced in paying quantities. The Act would grant six months for the installation of production equipment and facilities on the lease. The lessee would be required to pay $5 per acre in back rentals within 30 days of written notice from the Secretary of the Interior. The Secretary is required to give such notice within thirty days of the effective date of this Act. Future rentals shall be not less than $5 per acre per year and a future royalty of not less than 16 2/3 percent. Except as specifically modified by this Act, all other provisions of the Mineral Lands Leasing Act of 1920, as amended, will apply to the lease.

Lease U-39711, comprising 640 acres in Uintah County, Utah, was segregated out of lease U-7755 which was issued for a term of ten years effective March 1, 1969. The Castle Unit was approved by the Geological Survey effective January 30, 1978 and the nonunitized portion of lease U-7755 was segregated out and designated lease U-39711. By law, the nonunitized portion of leases continues in full force and effect for the original primary lease term or for two years from their segregation from the unit plan, whichever is longer, and so long thereafter as oil or gas is produced in paying quantities.

The Pacific Transmission Supply Company (PTS) and the Chorney Oil Company (Chorney) are the record title holders of lease U-39711. In late 1979, PTS and Chorney entered into an agreement with Paiute Oil and Mining Corporation (POMCO), which designated POMCO as the lease operator. Notices to that effect were sent to the Government by Chorney on December 17, 1979, and by PTS on January 22, 1980.

On January 3, 1980, POMCO submitted an application to drill well No. 24-15, and preliminary staking of the well was authorized on January 4, 1980. The authorization noted that the start of actual work was dependent on the completion of a survey for cultural resources and threatened and endangered flora and fauna. The application to drill was approved on January 25, 1980.

The operator has reported that it was drilling by January 29, 1980, with a small drill rig because a larger rig capable of drilling to the desired depth was not available at that time, and that following the start of drilling, further drilling was delayed until February 13, 1980, the earliest time that the larger rig could be moved to the drill site. In any event, production in paying quantities was not established for well No. 24-15 on or before January 30, 1980. Between the period of January 29, 1980 and June 8, 1980 POMCO spudded, drilled and proved commercial production capability from the lease without any contrary indication from the Department of the Interior. By February 24, 1980 the well was determined by POMCO to be capable of producing in commercial quantities. This conclusion was independently confirmed on June 5, 1980.

On June 9, 1980, the Geological Survey notified POMCO that lease U-39711 had expired on January 30, 1980 and advised POMCO that plans should be made to plug and abandon the well, and rehabilitate the site.

In a July 7, 1980 letter to Geological Survey, POMCO acknowledged that it did not have access to the lease file prior to January 30, 1980 and that it had not seen the lease documents until after the well was drilled, that it had relied on the oral statement of a Government employee that mere drilling on the expiration date would qualify the lease for extension, that it

believed that it was drilling under the provisions applicable to the primary term of an oil and gas lease, that it had spent $340,000 in developing the lease, and that representatives of Geological Survey were present at the drill site on January 30, 1980, to verify that the well was started.

The July 7 letter also indicated that because of delays in the delivery of heavy duty drilling equipment, production never began on the leasehold, but that field testing completed on February 24, 1980, proved that the well was capable of production, and that this conclusion was verified by an independent evaluation dated April 5, 1980.

Under the Mineral Lands Leasing Act of 1920, as amended, the Secretary does not have the authority to reinstate leases that expire because of a failure to establish production prior to the end of the lease term, and a petition to reinstate is not filed within the statutory time period set forth in 30 U.S.C. 226(d)(2). Thus, reintatement of the lease is dependent on action by the Congress.

Amendments to the Mineral Lands Leasing Act of 1920 contained in the Federal Oil and Gas Royalty Management Act of 1982 at Section 401 cover situations pertaining to excusable failures by a lessee to make timely and complete annual rental payments or such failures which were not due to the lack of reaonable diligence by the lessee. Section 401 was intended to

end the need for congressional consideration of private bills to reinstate the substantial number of oil and gas leases which had been terminated as a result of inadvertent mistakes caused by the lessee or by misinformation to lessees from federal employees or by misunderstandings between the lessees and federal employees. However, Section 401 did not authorize the Secretary to reinstate all types of terminated leases. Instead, Congress limited the Secretary's discretionary authority to reinstating oil or gas leases which were terminated for the untimely or inadquate payment of annual rentals. Thus, the remedy to the problem presented by the facts surrounding U-39711 is not within the scope of Section 401. The only remedy available to the lessee of U-39711 is a private relief bill.

In considering the reinstatement of a terminated lease Congress has historically determined first whether the circumstances that led to the lease termination justified the lease's reinstatement, and, second if reinstatement was appropriate what terms would be required. Congress has been inclined to enact a private relief bill to reinstate a lease if the lease was terminated as a result of an inadvertent mistake, even if unintentionally caused by the lessee. In the instance of federal lease U-39711, the termination of the lease, if it occurred at all, was the result of an inadvertent mistake by the lessee and a federal employee. Inasmuch as: (1) The lessee did

not have access to the lease file in the possession of the Department of the Interior at a crucial time; (2) the Department granted POMCO authority to drill at a time when it would have been physically impossible to have demonstrated a commercially productive well by the lease termination date; (3) the Department acquiesced in the drilling activity by POMCO long after the lease allegedly terminated; (4) the Department permitted POMCO to expend approximately $340,000 without interruption until June 9, 1980; and (5) Department employees witnessed the spudding before January 30, 1980 and the progressive development of well No. 24-15 for approximately five months before taking action against the development of the well. Such action to terminate well development by the Department only occurred after the well was proved as capable of commercial production.

Upon a finding that the circumstances leading to the termination of lease U-39711 justified the lease's reinstatement, it would be consistent to require lease terms analogous to those terms contained in Section 401 of the Federal Oil and Gas Royalty Management Act of 1982. That Act essentially requires a that reinstated, non-competitive lease be extended upon the payment of $5 per acre for back rental and the payment of 16 2/3 percent royalty from production.

The following information supports the finding that the lease should be extended:

1. POMCO, as operator of the lease will lose the $340,000 it has invested in the lease even though it was diligent in pursuing development of the lease shortly after it was designated as operator.

2. An inexperienced operator that has been led to believe by the owner of record that a lease is in its primary term could be confused as to what actions will qualify the lease for an extension, since leases in their primary term can be extended for two years by mere drilling over the expiration date of the lease, and especially if a statement to that effect, in regard to the lease in question, has been made by a Government employee.

3. The Geological Survey approved the application to drill on January 25, 1980, even though it should have known that production could not be achieved before January 30, 1980.

4. Even though the Geological Survey should have known on January 30, 1980, that the lease had expired, a representative of the agency made inspections of the operation on February 12 and 20, 1980. This would have led the operator to believe that the lease had been extended, thereby inducing the operator to spend more money in developing the lease after its January 30, 1980 expiration date.

5. POMCO has alleged that it could not locate the lease file in the Bureau of Land Management's office in Utah. If

that is true, it may have been one of the reasons that the company was not knowledgeable about the terms of the lease.

6. POMCO would be able to begin production of the lease long before any new lessee could and the payment of rentals and royalty benefits soon began.

The bill would impose on the company the same penalties that would apply if the lease could be reinstated under the terms of Section 401 of the Federal Oil and Gas Royalty Management Act of 1982 30 U.S.C. 188(d). The increased royalty would probably equal any bonus that would be received by the Government if the lease were to be offered competitively. This is especially true since only 320 acres of the 640-acre leasehold has been determined to be in a known geologic structure (KGS), and only that portion of the leasehold that is in a KGS would be leased competitively.

This concludes my statement, I would be pleased to respond to any question on this bill.

Senator WARNER. Thank you. I think that reflects the high points that should be considered in this matter. It puts the responsibility on the chair and the members of this subcommittee to make certain the situation is one of mutual mistake and that is the justification for correction by virtue of waiver of this and it is straightforward.

Mr. ICKES. Very good, thank you, Senator.

Senator WARNER. The chair accepts your recommendation.

I note the presence of a representative from Senator Garn's office. I am informed that this particular bill is Senator Garn's bill.

Mr. WEIDNER. That is correct.

Senator WARNER. The Chair will instruct the staff that this record will remain open for a week, at which time such other materials relative to the issues will be accepted for the record, particularly statements by colleagues on this bill and colleagues in the Senate.

Mr. WEIDNER. I might add, Senator, that Senator Garn appreciates your willingness to hold this hearing this morning and thanks you.

Senator WARNER. I do it on behalf of the interest in energy in the United States.

Thank you. I wish you a safe return.

[Whereupon, at 9:50 a.m., the hearing was adjourned.]

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